

HOUSE AMENDMENTS TO SENATE BILL 278

By COMMITTEE ON RULES

June 17

1 On page 1 of the printed bill, line 2, delete “amending ORS 456.608” and insert “creating new
2 provisions; amending section 2, chapter 3, Oregon Laws 2020 (third special session); and declaring
3 an emergency”.

4 Delete lines 4 through 30 and delete pages 2 and 3 and insert:

5 **“SECTION 1. Section 2 of this 2021 Act is added to and made a part of ORS chapter 90.**

6 **“SECTION 2. (1) As used in this section:**

7 **“(a) ‘Documentation’ includes electronic mail, a screenshot or other written or electronic**
8 **documentation from a rent assistance provider verifying the submission of an application for**
9 **rental assistance.**

10 **“(b) ‘Nonpayment’ means the nonpayment of a payment that is due to a landlord, in-**
11 **cluding a payment of rent, late charges, utility or service charges or any other charge or fee**
12 **as described in the rental agreement or ORS 90.140, 90.302, 90.315, 90.392, 90.394, 90.560 to**
13 **90.584 or 90.630.**

14 **“(2)(a) If a tenant provides the landlord with documentation that the tenant has applied**
15 **for rental assistance, a landlord may not:**

16 **“(A) Deliver a termination notice for nonpayment; or**

17 **“(B) Initiate or continue an action for possession based on a termination notice for**
18 **nonpayment.**

19 **“(b) A tenant may provide documentation by any method reasonably calculated to achieve**
20 **receipt by the landlord, including by sending a copy or photograph of the documentation by**
21 **electronic mail or text message.**

22 **“(c) If 60 days have passed since the tenant provided documentation under this sub-**
23 **section:**

24 **“(A) A landlord may deliver to the tenant a new termination notice for nonpayment, to**
25 **which this section does not apply, without providing the notice under subsection (4) of this**
26 **section; or**

27 **“(B) If a claim for possession was postponed under subsection (5)(b) of this section, the**
28 **court shall promptly set the matter for trial.**

29 **“(3) Except as provided in subsection (2)(c)(A) of this section, a landlord shall deliver the**
30 **notice described in subsection (4) of this section along with:**

31 **“(a) Any notice of termination for nonpayment; and**

32 **“(b) Any summons for a complaint seeking possession based on nonpayment given by the**
33 **landlord or service processor, including a summons delivered under ORS 105.135 (3)(b).**

34 **“(4) The notice required under subsection (3) of this section must be in substantially the**
35 **following form:**

1 “

2
3 **THIS IS AN IMPORTANT NOTICE ABOUT YOUR RIGHTS TO PROTECTION AGAINST**
4 **EVICTON FOR NONPAYMENT.**

5
6 **For information in Spanish, Korean, Russian, Vietnamese or Chinese, go to the Judicial**
7 **Department website at www.courts.oregon.gov.**

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9 **Until February 28, 2022, if you give your landlord documentation that you have applied**
10 **for rental assistance at or before your first appearance in court, you may be temporarily**
11 **protected from eviction for nonpayment. Documentation may be made by any reasonable**
12 **method, including by sending a copy or photograph of the documentation by electronic mail**
13 **or text message. “Documentation” includes electronic mail, a screenshot or other written**
14 **or electronic documentation verifying the submission of an application for rental assistance.**

15
16 **To apply for rental assistance, go to www.oregonrentalassistance.org, dial 211 or go to**
17 **www.211info.org. To find free legal assistance for low-income Oregonians, go to**
18 **www.oregonlawhelp.org.**

19 “

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21 **“(5)(a) A court shall enter a judgment dismissing a complaint for possession that is based**
22 **on a termination notice for nonpayment if the court determines that:**

23 **“(A) The landlord failed to attach the notice as required under subsection (3) of this**
24 **section.**

25 **“(B) The tenant’s nonpayment was substantially caused by the landlord’s failure to rea-**
26 **sonably participate with a rental assistance program. This subparagraph does not require**
27 **that a landlord apply for compensation under section 2, chapter 3, Oregon Laws 2020 (third**
28 **special session).**

29 **“(C) The landlord receives rental assistance covering the rent owed under the notice.**

30 **“(D) The tenant provided the landlord with documentation of application for rental as-**
31 **sistance as described in subsection (2) of this section before the claim was filed.**

32 **“(b) If the tenant provides the landlord or court with documentation of application for**
33 **rental assistance as described in subsection (2) of this section at any time after the landlord**
34 **commenced the action for possession and at or before the first appearance, at the first ap-**
35 **pearance the court shall, on its own motion, postpone the first appearance to a date not**
36 **earlier than 60 days after the documentation was delivered.**

37 **“(6) If a landlord violates this section:**

38 **“(a) A tenant may obtain injunctive relief to recover possession or address any other**
39 **violation;**

40 **“(b) The tenant has a defense to an action for possession by the landlord.**

41 **“(7) Notwithstanding ORS 105.137 (4), if a claim for possession is dismissed under this**
42 **section, the tenant is not entitled to prevailing party fees, costs or attorney fees if the**
43 **landlord:**

44 **“(a) Delivered to the tenant all notices required under subsection (3) of this section as**
45 **required;**

1 “(b) Did not know, and did not have reasonable cause to know, at the time of commencing the action that the tenant had provided documentation of application for rental assistance under subsection (2) of this section; and

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3
4 “(c) Promptly dismissed the action upon becoming aware of the documentation of application for rental assistance.

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6 “**SECTION 3.** Section 2 of this 2021 Act applies only to a notice of termination for non-payment given on or after July 1, 2021.

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8 “**SECTION 4.** Section 5 of this 2021 Act is added to and made a part of ORS 105.105 to 105.168.

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10 “**SECTION 5.** The clerk shall include the notice described in section 2 (4) of this 2021 Act with the summons and complaint mailed to a defendant under ORS 105.135 (3)(a).

11
12 “**SECTION 6.** (1)(a) The Judicial Department shall translate the notice form under section 2 (4) of this 2021 Act into the Spanish, Korean, Russian, Vietnamese and Chinese languages and shall display links to the English and translated forms prominently on the main webpage at www.courts.oregon.gov.

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14
15 “(b) Each form on the Judicial Department website must include a statement in English, Spanish, Korean, Russian, Vietnamese and Chinese indicating that the form and translations can be found on the Judicial Department website and the web address where the forms may be found.

16
17 “(2) The department shall prepare a summary of sections 2 and 3 of this 2021 Act, deliver a copy of the summary to each circuit court in this state for posting at the clerk’s counter and publish the summary on the department’s website.

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20 “**SECTION 7.** In distributing rental assistance to residential tenants funded by federal, state or local moneys, the Housing and Community Services Department, other public bodies and local governments, along with their subgrantees, shall promptly provide a dated application receipt to each tenant who applies for assistance. The receipt may be in an electronic format.

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22 “**SECTION 8.** Sections 2, 5, 6 and 7 of this 2021 Act are repealed on March 1, 2022.

23 “**SECTION 9.** The Housing and Community Services Department shall provide a grant to a third party to make distributions to compensate landlords who, under section 2 of this 2021 Act, have delayed termination notices or eviction proceedings. A landlord may apply for compensation for nonpayment that accrued during the delay if the landlord demonstrates that:

24 “(1) The tenant’s application for rental assistance was denied; or

25 “(2) Sixty days have passed since the tenant provided documentation of application for rental assistance without the landlord receiving rental assistance.

26 “**SECTION 10.** Section 9 of this 2021 Act is repealed on March 1, 2023.

27 “**SECTION 11.** Sections 2, 5, 6, 7 and 9 of this 2021 Act become operative on July 1, 2021.

28 “**SECTION 12.** Section 2, chapter 3, Oregon Laws 2020 (third special session), is amended to read:

29 “**Sec. 2.** (1) The Housing and Community Services Department shall make distributions to compensate residential landlords for [80] **100** percent of the past-due rent of qualified tenants that the landlord has not collected after April 1, 2020, **and on or before the earlier of June 30, 2021, or the date of the application,** if the landlord or the landlord’s designee:

30 “(a) Submits an application to the department for all of the landlord’s tenants who have not paid

1 rent and have delivered to the landlord a signed declaration under section 7 (1)(b) *[of this 2020 third*
2 *special session Act]*, **chapter 3, Oregon Laws 2020 (third special session), as in effect on June**
3 **30, 2021;**

4 “(b) Includes in the application a copy of the tenants’ declarations;

5 “(c) Provides the department with a description of the unpaid rent for all current tenants;

6 “[*(d) Agrees to forgive the remaining 20 percent of the unpaid rent due from qualified tenants that*
7 *has accrued between April 1, 2020, and the date of the application, upon receiving a distribution under*
8 *this subsection;*]

9 “[*(e)*] **(d)** Agrees to repay to the department any amount [*that was forgiven by the landlord or*]
10 *that was paid to the landlord under this section and the landlord later receives from the qualified*
11 *tenant or on the tenant’s behalf, within the period requested by the department;*

12 “[*(f)*] **(e)** Is not a member of the tenant’s immediate family, as defined in ORS 90.427;

13 “[*(g)*] **(f)** During the pendency of the distribution application, agrees to not give a termination
14 notice without cause or for nonpayment, as those terms are defined in section 3, chapter 13, Oregon
15 Laws 2020 (first special session); and

16 “[*(h)*] **(g)** Provides any other information or materials required by the department.

17 “(2)(a) The department shall develop an online application for landlords to apply for distrib-
18 utions under this section.

19 “(b) The application must be made available in languages other than English.

20 “(c) The application period must be open more than once to allow for greater outreach and
21 participation.

22 “(3) The department may establish any qualifications, priorities, restrictions or limits on the
23 distributions made under this section, to prioritize landlords with fewer units and landlords with a
24 higher percentage of unpaid rents. Restrictions or limits may include:

25 “(a) Limits per tenant, per landlord or per time period;

26 “(b) The number of units a landlord must own; or

27 “(c) The percentage or amount of total rent unpaid.

28 “(4) The department may coordinate with local housing authorities to administer this section,
29 including through making distributions to landlords.

30 “(5) The department or local housing authority shall mail to tenants copies of a notice of dis-
31 tribution to their landlords [*and the amount of rent forgiveness agreed to by their landlords*].

32 “(6) The department may conduct outreach to landlords and tenants, including outreach to
33 non-English speakers.

34 “(7) Notwithstanding ORS 276A.300, 279A.025, 279A.050 (6)(g), 279A.205 and 456.571, the depart-
35 ment shall expedite the implementation of the landlord compensation fund.

36 “(8) As used in this section, ‘landlord’ includes a manufactured dwelling park nonprofit cooper-
37 ative as defined in ORS 62.803.

38 “**SECTION 13. (1) The amendments to section 2, chapter 3, Oregon Laws 2020 (third spe-**
39 **cial session), by section 12 of this 2021 Act apply to all applications submitted or approved**
40 **before, on or after the effective date of this 2021 Act.**

41 “**(2) The Housing and Community Services Department shall make distributions to adjust**
42 **the compensation under section 2 (1), chapter 3, Oregon Laws 2020 (third special session), for**
43 **landlords whose applications were approved before the effective date of this 2021 Act without**
44 **requiring that the landlord submit an additional application.**

45 “**SECTION 14. This 2021 Act being necessary for the immediate preservation of the public**

1 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**
2 **on its passage.”**

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